

## REMARKS/ARGUMENTS

Claims 3-6, 10 and 11 are pending herein. Claims 1, 2 and 7-9 have been cancelled without prejudice or disclaimer. Claims 3, 4 and 6 have been amended to correct matters of form only. New claims 10 and 11 have been added hereby as supported by claims 5-6, for example. Applicant respectfully submits that no new matter has been added.

1. Applicant hereby affirms the provisional election to prosecute claims 3-6 in the present application. The non-elected claims have been cancelled without prejudice or disclaimer. Applicant reserves the right under 35 USC §121 to file a divisional application for the non-elected claims.
2. The Examiner's note with regard to the foreign application is noted. The specification has been amended accordingly.
3. Claims 3-6 were rejected under §112, second paragraph as being indefinite. Applicant respectfully submits that this rejection is moot in view of the amended claims submitted above. If there is specific language that the Examiner still finds objectionable, the Examiner is requested to call Applicant's attorney at the phone number noted below.
4. Claims 3-6 were rejected under §102(a)/§102(e) over Fisher et al. U.S. Patent No. 6,243,691.

Fisher discloses a method and system for processing and transmitting online trading system information. Fisher discloses the use of multiple auction formats including standard auction, Dutch auction, and progressive auction.

In contrast, the present application discloses an online trading system wherein an article is presented for sale, at a particular selling price. If no application for purchase is received within a predetermined time period or prior to a predetermined date and time, the article *is then presented* for auction. As recited in claim 3, the online trading system of the present application determines a successful bid based on the information received by the prior bid receiving means (which contains bids from the sale of the article) and the information received by the bid submission receiving

means (which contains bids from the auction of the article). This process of determining a successful bid using information from both the sale and the auction is neither disclosed nor suggested in Fisher '691.

Claims 4, 5 and 10, and 6 and 11 recite the successful bid determining means, unit price storing means for bidding up, and a starting price storing means for storing a starting price of the auction, respectively. Since these claims ultimately depend from claim 3, these claims are also believed to be allowable over Fisher.

For at least the foregoing reasons, Applicant respectfully submits that this application is in condition for allowance. Accordingly, the Examiner is requested to issue a Notice of Allowance as soon as possible.

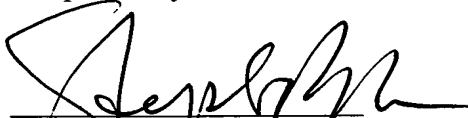
**The Examiner is requested to confirm receipt and consideration of the Information Disclosure Statement filed October 24, 2003.**

If the Examiner believes that contact with Applicant's attorney would be advantageous toward the disposition of this case, the Examiner is herein requested to call Applicant's attorney at the phone number noted below.

The Commissioner is hereby authorized to charge any additional fees associated with this communication or credit any overpayment to Deposit Account No. 50-1446.

December 3, 2003  
Date

Respectfully submitted,

  
Stephen P. Burr  
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SPB/SEC/gmh

Attachments:      Appendix A - substitute specification  
                         Appendix B - marked-up specification

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